

REMARKS

Claims 1, 5, 7-14, 20-24, 26-28, and 30-34 are pending in the present application. No additional claims fee is believed to be due.

Claims 2, 4, 19, 25, and 29 are cancelled herein without prejudice.

Claims 1 and 28 are amended herein. Support for the amendment to claims 1 and 28 can be found, for example, at page 3 of the specification.

Claims 30-34 are added herein. Support for new claims 30 and 33 can be found, for example, at pages 3-17 and Examples 1-9 of the specification. Support for new claim 31 can be found, for example, at pages 5-8 and 11-12 of the specification. Support for new claim 32 can be found, for example, at page 17 of the specification. Support for new claim 34 can be found, for example, at page 3 of the specification.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection under 35 U.S.C. §103(a) Chambers (U.S. Patent No. 5,612,307, hereinafter referred to as "Chambers") in view of Hayward (U.S. Patent No. 6,534,456 hereinafter referred to as "Hayward")

Claims 1, 2, 4, 5, 7-14 and 19-29 were rejected under 35 U.S.C. §103(a) as being obvious over Chambers in view of Hayward. This rejection is traversed and reconsideration respectfully requested.

Hayward describes Chambers as "compris[ing] a surfactant containing base formulation and a benefit agent wherein the benefit agent and base formulation are physically separated" (Col. 1, lines 42-48). Hayward goes on to describe another patent, Puvvada, as "the same separately dispensed, non-mixed prior to use, dual cleanser/moisturizer compositions described by Chambers, et. al....except that the benefit agent stripe had been modified so that it now may include surfactant" (Col. 1, lines 52-58). Hayward, thus, characterizes the benefit agent containing phase of Chambers as not having a surfactant.

Hayward goes on to distinguish itself from other non-segregated multi-phase compositions like Dallal, Bordat, and Barker by proclaiming none of them use at least one lamellar liquid and at least one isotropic liquid (Col. 1, line 59 – Col. 2, line 17). Further, Hayward explains “[t]he rheological behavior of all surfactant solutions...is strongly dependent on the microstructure” and “[a]s surfactant concentration increases, ordered liquid crystalline phases such as lamellar phase...may form” (Col. 2, lines 19-28). Going further, Hayward states, “[o]ne of the principle benefits of the invention is the ability to suspend oil/emollient particles in one or more lamellar phases in the multi-phase composition” (Col. 10, lines 18-21). Thus, it appears Hayward is suspending its oil/emollient in the lamellar phase and the lamellar phase requires surfactant.

Contrary to Hayward, amended independent claims 1 and 28 and new independent claim 30 recite a benefit phase comprising zero percent by weight of the benefit phase of surfactant. Thus, Applicants benefit phase as recited in these claims cannot be a lamellar phase as described in Hayward and therefore go directly against what Hayward has described as one of the principle benefits of his invention, suspending the oil/emollient in the lamellar phase. As Hayward requires the benefit containing phase to be a surfactant containing lamellar phase, Applicants benefit phase has zero percent by weight of surfactant, and the Office Action has pointed to nothing in Chambers that would cure this deficiency, Applicants submit claims 1, 28, and 30, and those claims dependent thereon are free from the art as cited and respectfully request reconsideration.

Hayward also states the lamellar phase should generally comprise no more than 70% of an oil/emollient (Col. 10, lines 41-44). Conversely, Applicants independent claim 33 recites the benefit phase comprises from about 80% to about 99% of a hydrophobic benefit agent by weight of the benefit phase. Additionally, the Office Action has pointed to nothing in Chambers that would cure this deficiency. As such, Applicants submit claim 33 and those claims dependent thereon are free from the art as cited and respectfully request reconsideration.

Rejection Under 35 U.S.C. §103(a) Chambers in view of Hayward in view of Frantz et al
(hereinafter referred to as “Frantz”)

Claims 10-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Chambers in view of Hayward in view of Frantz. This rejection is traversed and reconsideration respectfully requested.

As discussed above, Applicants submit the combination of Hayward and Chambers fail to render obvious independent claims 1, 28, 30, and 33. As claims 10-13 depend from claim 1, Applicants submit the discussion above is likewise relevant here. Moreover, the office action points to nothing in Frantz which would cure the deficiency noted above. As such, Applicants submit Chambers in view of Hayward further in view of Frantz as cited also fails to make obvious claims 10-13 and reconsideration is respectfully requested.

Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied references. In view of the foregoing, reconsideration of this application, and allowance of the pending claims are respectfully requested. Should any fee be required, please charge such fee to Procter & Gamble Deposit Account No. 16-2480.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By /Carrie M. Benjamin/
Carrie M. Benjamin
Registration No. 58,861
(513) 983-3449

Date: November 10, 2011
Customer No. 27752